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Chairman: Mr. LEHMANN (Denmark)

CONTENTS

AGENDA ITEM 145: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

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The meeting was called to order at 10.25 a.m.

AGENDA ITEM 145: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/50/33, A/50/361 and A/50/403)

1. Mr. OBEIDAT (Jordan) said that, in view of the world's economic interdependence, attention should be focused on ensuring that sanctions imposed by the Security Council affected only the target party and were fully and promptly lifted as soon as there was justification for doing so. Article 50 of the Charter of the United Nations had been drafted in recognition of the fact that the imposition of economic sanctions under Chapter VII would place third States in economic difficulty. Accordingly, Articles 49 and 50 should be no less mandatory in nature than the other Articles contained in Chapter VII.

2. The suffering of third States should also be viewed in the wider context of the restructuring of the United Nations, specifically in terms of increasing the membership of the Security Council, ensuring the transparency of the procedures of United Nations bodies and addressing the suffering of third States through permanent guidelines intended for the Security Council and the international community. He emphasized the important role the Economic and Social Council and the General Assembly should play in minimizing the effect of sanctions on third States and welcomed the proposals contained in paragraphs 9 and 39 of the Secretary-General's report on the subject (A/50/361), which held the keys to a radical solution to the problem that should be further developed.

3. He welcomed the establishment of the informal working group and the contribution made to its work by the European Union. There was a need for practical solutions to the question that took into consideration the positions of all States, including the proposals contained in document A/AC.182/L.79. He emphasized also the need for a permanent mechanism that would focus attention on various solutions, including the establishment of a trust fund, as well as preventive measures.

4. His delegation endorsed the recommendation to annex the draft United Nations Model Rules for the Conciliation of Disputes between States to a resolution or decision to be adopted by the General Assembly with a view to promoting the peaceful solution of disputes. It likewise endorsed the deletion of the "enemy State" clauses from the Charter on the ground that they were obsolete. Lastly, Jordan supported the recommendation that membership on the Special Committee should be open to all States.

5. Mr. SIDI ABED (Algeria) said that the Special Committee had not fulfilled its mandate under resolution 3499 (XXX) in the manner expected. Instead of playing its anticipated important role during the current period of transition in the life of the Organization, it had concentrated on peripheral topics with marginal impact.

6. In view of the increasing interest displayed by delegations in the work of the Special Committee, serious thought should be given to the that body's agenda, which should in future concentrate on matters relating chiefly to

international peace and security, as well as on strengthening the role and effectiveness of the Organization. Given that the legal aspects of dispute settlement were amply covered by existing instruments, the Special Committee's agenda should not be overburdened with legal or other texts relating to the peaceful settlement of disputes which served no purpose unless States intended to abide by their provisions.

7. Given the lack of progress on implementing the provisions of the Charter concerning assistance to third States affected by the application of sanctions, he supported the Special Committee's decision to establish a working group within the Sixth Committee. Results would be modest until the international community demonstrated the political will to draw up practical and effective mechanisms to carry out those functions.

8. He agreed that the "enemy States" clauses were obsolete and should be deleted from the Charter, thereby strengthening the universal nature of that fundamental text. However, given the symbolic and political significance of the deletion, it would be neither practical nor appropriate to expect a rapid ratification process. Many States would prefer to wait until a whole series of amendments, including those relating to reform of the Security Council, could be ratified in a single operation.

9. Article 109 of the Charter stipulated that the legally and politically correct procedure for reviewing the Charter was to convene a general conference. He favoured a global approach which, while not while not setting a precedent, would take account of the deliberations of the General Assembly's working group on reform of the Security Council.

10. As an increasing number of States participated in its work as observers, the Special Committee had proved itself capable of fulfilling its initial mandate in responding appropriately to the perceived needs of States. The time had come to allow the Special Committee to play its part in reforming the Security Council and in strengthening the role of the United Nations.

11. Mrs. BAYKAL (Turkey) welcomed the Secretary-General's report on assistance to third States affected by the application of sanctions under Chapter VII of the Charter (A/50/361), which contained enlightening and useful proposals for minimizing the effect of sanctions on third States. While such sanctions certainly constituted an effective measures against the violators of international law, she shared the Secretary-General's view that their cost should be borne by all States Members of the Organization. The Charter clearly referred to the right of Member States to consult the Security Council with regard to a solution of their problems; however, its provisions, including Article 50, did not envisage any mechanism or guidelines for doing so. Since the Council was obliged to take appropriate measures under Article 50, permanent mechanisms must be established to permit effective implementation of that provision.

12. One possible means of mitigating adverse effects of sanctions on third States would be to enhance transparency in the work of the Security Council and its sanctions committees with regard to the imposition, implementation, review and lifting of sanctions. The Council should consider reviewing the existing

sanctions regimes in public meetings at which there was open debate, while the sanctions committees should conduct their deliberations in public meetings or inform non-members of their deliberations and decisions by circulating detailed reports periodically.

13. The financial problems suffered by third States as a result of the application of sanctions also required an urgent response. Temporary solutions, such as assistance from international financial institutions, were not sufficient. A permanent mechanism should be established to which States could apply for damages and from which they could receive compensation. It would not be sufficient merely to strengthen the Secretariat bodies dealing with sanctions and related issues.

14. Her delegation fully supported the draft resolution proposed by the Special Committee regarding deletion of the "enemy State" clauses from the Charter. The draft United Nations Model Rules for the Conciliation of Disputes between States should be adopted by the General Assembly as an annex to a resolution.

15. In conclusion, she emphasized that the Special Committee had an important role to play in the ongoing review of the Charter and was in no way diminished by the increasing number of committees and working groups established with the aim of reforming the United Nations.

16. Mr. NGO QUANG XUAN (Viet Nam) said that the United Nations should be restructured to keep pace with fundamental changes taking place on the international front. The role of the General Assembly should be enhanced, while the balance between the Security Council, the Assembly and the Secretary-General should reflect contemporary realities. The Security Council must be enlarged, with due attention paid to representation of the developing countries, in keeping with the principle of the equality of all Member States. Procedures and working methods must be adapted to achieve broader democracy and transparency. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization must become more actively involved in that inevitable process and integrate its work with that of other United Nations bodies. In that connection, the proposals submitted by Cuba and the Libyan Arab Jamahiriya deserved consideration.

17. The time had come to shift the focus of discussion of Charter provisions relating to assistance to third States affected by the application of sanctions onto the formulation of concrete and realistic measures. The elements contained in the Secretary-General's report were entirely feasible, and he welcomed the creation of the working group during the current session.

18. Timely assessment of the political and socio-economic aspects of sanctions, whether by sanctions committees or by special fact-finding missions, would help to make the necessary adjustments. A set of guidelines for procedures should be formulated, as proposed in paragraph 41 of the Secretary-General's report (A/50/361). He hoped that those proposals, as well as the proposal to establish a trust fund, would be reflected in the draft resolution to be submitted to the General Assembly for adoption.

19. He appreciated the Special Committee's work and recommendations on the draft United Nations Model Rules for Conciliation of Disputes between States proposed by Guatemala. In addition, his delegation supported the decision recommending that the General Assembly should open membership of the Special Committee to all States Members of the United Nations.

20. Mr. MASUKU (Swaziland) expressed his satisfaction at the progress achieved by the Special Committee in its work. Nevertheless, the Special Committee must take advantage of the existing political climate and the international community's continued faith in the ideals of the United Nations to find means for enhancing the Organization's effectiveness in meeting the new challenges posed by recent international developments.

21. Priority should be accorded to the special economic problems of third States arising from the implementation of sanctions, problems which were exacerbated by increasing global interdependence. Extreme flexibility must be exercised if sanctions were to be applied swiftly, efficiently and effectively. His delegation had serious reservations about the establishment of an independent trust fund and the suggested special windows of credit to be extended by the international financial institutions to States affected by sanctions. In its efforts to produce a more broadly acceptable formula, the Special Committee might consider setting up a mechanism within the Secretariat to evaluate the effects of sanctions before they were imposed, as suggested by the Secretary-General.

22. His delegation agreed in principle with the proposals on restructuring and reform of the Security Council. The membership of the Council had become increasingly inequitable, failing to keep pace with the expanded membership of the United Nations itself. Accordingly, it must be made more representative, transparent and democratic.

23. The draft United Nations Model Rules for the Conciliation of Disputes between States were commendable because they incorporated the concept of consent between States that were already parties to a dispute. They appeared, moreover, to conform with the provisions of the Charter. States should be allowed the latitude to appoint a single conciliator by agreement. The proposed Rules would serve all the purposes of conciliation, and would also prove cost-effective. He hoped that the proposal submitted by Sierra Leone would be considered further.

24. His delegation supported deletion of the anachronistic "enemy State" clauses from the Charter and welcomed the Special Committee's decision to submit a draft resolution on that subject for consideration and adoption by the General Assembly. Swaziland also supported the Special Committee's recommendation that its membership should be open to all Members of the United Nations.

25. Mr. MATIKO (United Republic of Tanzania) said that, although the topics which the Special Committee was mandated to consider deserved to be addressed individually, it was difficult to carry out any meaningful discussion of them outside the general context of the reform of the United Nations as a whole. When the Charter of the United Nations had been signed in 1945, most of the current Member States either had not existed or had been ineligible for membership in the Organization. Thus the specific aspirations of those States

had not been accommodated in the Charter. As newly independent States sought membership in the Organization, it became apparent that a review of the Charter was necessary to accommodate their interests.

26. With the end of the cold war, new forms of conflict had arisen, but since the structure of the Organization had not been designed to address them, a review of the United Nations had become necessary, in particular of those organs responsible for the maintenance of international peace and security, with a view to making them more responsive to such conflicts. In that connection he agreed that the Special Committee should become an open-ended entity within the framework of the Sixth Committee; the status quo should be maintained, with members and observers participating on an equal footing.

27. His delegation shared Cuba's view that the membership of the Security Council should be expanded, in order to enable it to meet the current challenges to international peace and security. The permanent members' power of veto should be eliminated in its current form. Since no State was permanently a great Power, there was no logic in maintaining an obsolete system which served the interests of only a select few. Moreover, the current pattern of representation on the Council did not take into account such factors as sovereign equality, equitable geographic distribution or economic power; consequently, the non-permanent membership should be expanded.

28. A lacuna existed in Article 50 of the Charter, since it failed to obligate the international community to come to the assistance of third States affected by the sanctions applied to another State. The burden of sanctions should be shared collectively and amendment of the Article should also provide for entitlement to fair and adequate compensation to third States. A trust fund should be established, supplemented by bilateral and multilateral support, to provide such compensation. However, it would be outside the scope of Article 50, and would in fact defeat the object of applying sanctions, to provide compensation to innocent segments of target States' populations. Although it was usually the innocent and the poor who suffered most when sanctions were applied, it was difficult to single out specific segments of the population in a given State for the purpose of compensation.

29. With increased technical capacity, the sanctions committees should continue to assess the economic and associated problems experienced by third States. However, the role of such committees should be redefined and their composition restructured to make them more transparent.

30. Emphasis should be given to preventing conflicts rather than restoring peace, and he was therefore pleased to note that the draft United Nations Model Rules for Conciliation of Disputes between States embodied some elements of preventive diplomacy. His delegation also believed that the time had come to let bygones be bygones and that the "enemy States" clauses should therefore be deleted from the Charter.

31. Mr. RAICHEV (Bulgaria) said that his country was one of those that suffered the most serious economic losses as a result of the strict implementation of sanctions against Iraq, the Libyan Arab Jamahiriya and especially the Federal Republic of Yugoslavia (Serbia and Montenegro). The cumulative loss from the

application of those sanctions was equivalent to 25 per cent of Bulgaria's estimated gross domestic product (GDP) for 1995. The social cost of the transition to a market economy, aggravated by the impact of the application of sanctions, had resulted in a drastic 40 per cent drop in per capita GDP during the previous five years.

32. Bulgaria endorsed the Secretary-General's views as set out in his report on assistance to third States affected by the application of sanctions under Chapter VII of the Charter (A/50/361), particularly his proposal for the establishment of guidelines for the consideration of applications for assistance to countries which invoked Article 50 of the Charter. The Secretary-General was correct in stating in his Supplement to an Agenda for Peace that sanctions were a measure taken collectively by the United Nations to maintain or restore international peace and security. The cost involved in their application should therefore be borne equitably by all Member States and not exclusively by the few who had the misfortune to be neighbours or major economic partners of the target country.

33. There was an obvious and legitimate need to address the question of assistance to third States in practical terms, and a mechanism should therefore be elaborated for assisting them. The proposal to establish a mechanism for consultations between the Security Council and countries that were likely to be affected by sanctions deserved serious and immediate consideration. Without prejudice to the sovereignty and autonomy of the Security Council, such consultations would help to provide a fuller and clearer understanding of the possible adverse effects of sanctions on third countries. His delegation looked forward to the practical implementation of that proposal, possibly through the discussions on Article 50 which were currently taking place in the working group.

34. His delegation attached equal importance to the proposal for the establishment of a forum for consultations between affected third countries and the donor community at large, in which an assessment of needs based on a common methodology could be carried out and specific remedial measures, including the identification of funding sources, jointly elaborated.

35. While his delegation could understand some of the arguments raised against the establishment of a trust fund, countries which bore the burden of implementing sanctions ought to be able to count on the availability of specific resources for easing the negative impact of sanctions on their economies. The involvement of the international financial institutions and of the Economic and Social Council in providing assistance to the affected States was therefore of great importance. Bulgaria also agreed with the Secretary-General regarding the elaboration of a general methodology for impact analysis and damage assessment by an ad hoc expert body (A/50/361, para. 48).

36. A question of primary importance was the utilization of existing financial institutions and the search for other forms of assistance. His delegation wished to endorse, in particular, the use of such alternative forms of assistance as set-aside programmes, "doable programmes" in the affected countries, and promotion of foreign investment to the affected countries through multilateral or bilateral investment guarantees by donor Governments.

37. The Security Council should, in accordance with Article 48 of the Charter, consider on a case-by-case basis the granting of partial or limited exemptions from the sanctions regime in favour of the most adversely affected States, under appropriate forms of monitoring and control. The implementation of sanctions could also be made more effective by improving the mechanisms and criteria for their implementation and lifting. All sanctions should have clearly defined objectives and should be lifted once those objectives were met. There was obviously a need to improve the monitoring of sanctions through periodic reviews, which should be explicitly provided for in the resolutions under which the sanctions themselves were imposed.

38. On the question of the "enemy State" clauses of the Charter, his delegation supported the view that those clauses were obsolete and that, consequently, the General Assembly should initiate the procedure set out in Article 108 of the Charter with a view to their deletion.

39. As for the decision taken by the Special Committee to open its membership to all States Members of the Organization, he believed that that decision would enhance the deliberations of the Special Committee.

40. Mr. MATRI (Libyan Arab Jamahiriya) said that the important changes which had taken place in international relations since the founding of the United Nations had made it essential to restructure the Organization and revitalize its bodies to make them capable of keeping abreast with world developments and contributing to the cause of international peace and security. Such a restructuring should democratize the working methods of all United Nations bodies, particularly the Security Council, in accordance with the basic provisions of the Charter.

41. In that connection, the Libyan Arab Jamahiriya had submitted a proposal to the Special Committee which included ideas regarding the Security Council. In particular, it had called for the consideration of ways and means of enhancing the role of the Council in the maintenance of international peace and security and ending the use of the unanimity rule, which was an obstacle to the discharge by the Council of its responsibilities under the Charter. In addition, the membership of the Council should be expanded to reflect the large increase in the general membership of the Organization, taking into consideration the principle of equitable geographical distribution. Lastly, consideration should be given to the possibility of abrogating the power of veto and of determining non-procedural questions in respect of which the use of that power might be terminated or restricted.

42. The Libyan Arab Jamahiriya had been expressing increasing concern over the Council's use of double standards in the adoption of its resolutions. It was essential to consider measures aimed at removing such concerns, thereby enhancing justice and the rule of law.

43. If the international community was serious about restructuring the United Nations to make it compatible with the international changes that had taken place, then the General Assembly should play an active role in the maintenance of international peace and security, and a better balance should be sought between the main bodies of the Organization. Since the General Assembly was the international forum for deliberating and preparing resolutions on international

questions, its practical role must be enhanced, particularly in matters related to international peace and security. The Security Council should be held politically accountable to the Assembly so that its activities did not exceed its mandate or contravene the provisions of the Charter. The General Assembly should formulate guidelines for the use of armed force and for consultations with the Security Council before the imposition of sanctions in the name of the United Nations, under Chapter VII of the Charter.

44. In view of the increase in hotbeds of tension and instability and the eruption of civil wars and destructive ethnic conflicts throughout the world, and given the burdens shouldered by the United Nations, his delegation called for the creation of an effective mechanism for enhancing the role of regional organizations in the maintenance of international peace and security. Such a step should be taken in cooperation with the United Nations and in a manner that would guarantee the sovereignty of States and non-interference in their internal affairs.

45. Regional organizations should be given a role to play in solving disputes by peaceful means, in accordance with Chapter VIII of the Charter. The resolutions of such organizations should be respected and the Security Council should consult with them and give them a chance to find peaceful solutions to international disputes before adopting any resolutions itself. He welcomed the contribution of the Special Committee to the elaboration of the Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security, contained in General Assembly resolution 49/57. Implementation of that resolution would strengthen the Organization's effectiveness in the areas of preventive diplomacy and regional cooperation.

46. Respect for international conventions was the best means of maintaining peace. The Charter had confirmed that settling disputes by peaceful means was the primary goal of the United Nations. It was for that reason that the International Court of Justice should participate in the settlement of disputes by peaceful means and the awards of the Court should be respected. The Court had contributed on many occasions to the maintenance of peace among parties to disputes, as in the case of its decision in the territorial dispute between the Libyan Arab Jamahiriya and Chad, which had put an end to a 20-year-old dispute that had threatened regional peace.

47. Mr. Han Taek LIM (Republic of Korea) said that, as an advocate of the concept of lending assistance to States adversely affected by the application of sanctions under Chapter VII of the Charter, his delegation had a keen interest in strengthening consultations between the Security Council and States potentially affected by the imposition of sanctions. With the growing consequences of sanctions on third States in an increasingly interdependent world, it was essential to either improve the current consultation mechanism or create a more effective one in order to give affected States more opportunities for presenting their cases. Further consideration of the matter was needed, given the disparate views on the modalities for providing assistance to affected States.

48. He welcomed the completion of the drafting of the United Nations Model Rules for the Conciliation of Disputes between States. Conciliation had been

one of the most frequently applied and effective means for the peaceful settlement of disputes in many international instruments. Its beauty lay in its flexibility based on freedom of choice. He therefore hoped that it would be adopted by the General Assembly at the current session.

49. His delegation embraced the spirit of the proposal submitted by Sierra Leone entitled "Establishment of a Dispute Settlement Service offering or responding with its services early in disputes". While that initiative could be instrumental in strengthening the role of the Organization in the peaceful settlement of disputes, certain aspects, such as the initiation of the procedure, the relationship and division of labour between administrators and settlors, and the respective functions of the latter, needed further refinement. The proposal should also be given a more organized and systematic format to facilitate ease of usage. His delegation hoped that the proposal would be considered in greater depth at the 1996 session of the Special Committee.

50. He supported the recommendation to open the Special Committee to all Member States. Such a change would help to revitalize the Special Committee's activities and place them on a more democratic and universal footing. Moreover, given that the Special Committee's activities had been rather modest since its inception, the full participation of all Member States and a more transparent working method would add a new dimension to its role of enhancing the effectiveness of the Organization by adapting the Charter to the new international realities and by drawing the attention of Member States to a wider range of issues. In the light of the Special Committee's new composition, a course of action for its future work should be mapped out in terms of specific tasks and time-frames for their accomplishment.

51. With regard to the length of the 1996 session, his delegation was in favour of a short session, as in 1995. Given that the Ad Hoc Committee charged with reviewing the major substantive and administrative issues arising out of the draft statute of an international criminal court was expected to have an initial session of two or three weeks in early 1996, the Special Committee's session should be reduced to two weeks in order to alleviate the burden on many delegations.

52. Mr. ENAYAT (Islamic Republic of Iran), referring to the question of assistance to third States affected by the application of sanctions, said that in recent years the Security Council had frequently used economic sanctions as enforcement measures. The detrimental effects of such sanctions, however, were felt not only by the targeted country but also by third States. In order to implement Article 50 of the Charter, a set of measures should be elaborated to protect third States from such adverse effects. His delegation shared the view that economic sanctions could not solve international disputes and therefore should not be applied as a means of obtaining political goals. In fact, it was often the most vulnerable groups within the targeted country's population that suffered most from economic sanctions.

53. With regard to the draft United Nations Model Rules for the Conciliation of Disputes between States, it was obvious that peaceful settlement of disputes was central to the strengthening of the role of the United Nations and that conciliation was an essential part of preventive diplomacy. The text adopted by the Special Committee could therefore provide a comprehensive framework in that

field. It must be stressed, however, that the draft Model Rules remained optional and the consent of all parties to a conflict was needed at every stage of the peaceful settlement of disputes. Conciliation, moreover, was a diplomatic method and thus a political, and not a legal, modality for the peaceful settlement of disputes. He therefore supported the decision to delete original draft article 8.

54. His delegation also supported the recommendation that membership of the Special Committee should be open-ended to permit all Member States to participate. Furthermore, the Special Committee should continue to operate on the basis of consensus.

55. Lastly, his delegation supported the draft resolution contained in paragraph 65 of the Special Committee's report, which called for the deletion of the "enemy State" clauses in Articles 53, 77 and 107 of the Charter. Those clauses were obsolete and bore little relevance to the current situation of the Organization.

56. Mr. STRAUSS (Canada) agreed with the recommendation that the Special Committee should be open to all Member States and should continue to operate on the basis of consensus.

57. He was uncomfortable, however, with the duplication of the debate on the implementation of Article 50 of the Charter which was taking place in the Special Committee and its Working Group on the one hand and in the Security Council and the General Assembly on the other. Such duplication within the United Nations system was both unproductive and inefficient. The Special Committee should agree on what it could reasonably achieve in 1995 and move on to other matters in which it had a better chance of success.

58. Ms. BOUM (Cameroon) said that the Special Committee had been created as the result of a compromise between those States which held that the strengthening of the role of the Organization required a revision of the Charter and those which believed that that objective could be achieved without formally amending the Charter. Experience had shown that the latter point of view had prevailed in the work of the Special Committee. Documents prepared by the Special Committee were almost always in the form of non-binding declarations which merely restated the provisions of the Charter. Proposals aimed at strengthening the role of the Organization and enhancing its effectiveness had never had any chance of success. Mindful of that situation, no doubt, the General Assembly had created a number of ad hoc working groups whose mandates often duplicated that of the Special Committee. Consequently, those who were genuinely concerned about the procedures of the General Assembly could not help but raise questions about the Special Committee's current raison d'être. Although the usefulness of the Special Committee had been called into question in the Sixth Committee before, the time had perhaps come to think seriously about the value of its continued existence.

The meeting rose at noon.